

23.11.2022
rc/ct.no.10
Item No.24

WPA No. 10404 of 2022

Mr. Rabilal Maitra
Dr. Rudra Prasad Matilal ...for the Petitioner

Mr. Subrata Bhattacharjya
Mr. Suvash Roy ...for the NHAI

Mr. Chandi Charan De ...for the State

Affidavit of service filed in Court today is taken on record.

None appears on behalf of the State-respondents despite service.

Mr. Chandi Charan De, learned advocate, who usually appears on behalf of the State-respondent and is present in Court today, is requested to represent the State-respondents in this matter. The office of the learned Legal Remembrancer is requested to regularise the service of Mr. De in this matter.

The petitioner is directed to serve a copy of this application along with annexures thereto upon Mr. De in course of this day.

It is contended by the learned counsel appearing on behalf of the petitioner that the National Highway Authority of India (in short, "NHAI") issued a notification under Section 3A(1) of the National Highways Act, 1956 (hereinafter referred to as "the Act of 1956") for acquiring certain properties and such notice was not served to the petitioner. The petitioner was served with a payment notice

under Sections 3G(1) and 3G(2) of the Act of 1956 issued on 26th April, 2022 wherein compensation payable to the petitioner was assessed by the authority without making a survey of the quantum of the land acquired and without granting any solatium for the same. The value of the land was also not properly assessed.

It is submitted on behalf of the petitioner that since no notice under Section 3A(1) of the Act of 1956 was served upon the petitioner and no opportunity of hearing was granted to the petitioner in connection with the assessment of valuation of the land, solatium and other components of the compensation arrived at, the notice dated 26th April, 2022 is liable to be set aside. The petitioner seeks liberty to submit a comprehensive representation ventilating his grievance before the concerned authority and prays for a direction upon the authority to consider the said representation at the earliest.

The contention of the petitioner is denied and disputed by the respondents.

It is submitted by the learned counsels appearing on behalf of the respondents that the 4th respondent be directed to consider the representation submitted by the petitioner in accordance with law.

In view of the above, the writ petition is disposed of with liberty to the petitioner to submit a comprehensive representation before the 4th respondent ventilating his

grievance within 7 days from date. The 4th respondent is directed to consider and dispose of the representation within two weeks from the date of receipt thereof after affording reasonable opportunity of hearing to all interested parties including the petitioner, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

Pending disposal of the representation, no coercive step shall be taken by the concerned authority against the petitioner in respect of the plot in question.

With the above observations and directions this writ petition is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)